

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

Council for Medicare Choice, *et al.*,

Plaintiffs,

v.

United States Department of Health and Human
Services, *et al.*,

Defendants.

Civil Action No. 4:24-cv-446-O

Hearing Requested

Plaintiffs' Opposed Motion For Summary Judgment

Plaintiffs move for summary judgment under Federal Rule of Civil Procedure 56 and, pursuant to Local Rule 56.3(a), state the following:

Summary

1. Plaintiffs seek summary judgment on each of their claims that the challenged provisions of the Compensation Rule—the Fixed Fee and Contract-Terms Restriction, 89 Fed. Reg. 30,448 (Apr. 23, 2024) (amending 42 C.F.R. §§ 422.2274(a), (c), (d), (e) and 423.2274(a), (c), (d), (e))—violate the Administrative Procedure Act because the Rule: exceeds Defendants' statutory authority; violated notice-and-comment requirements; and is arbitrary and capricious. *See* 5 U.S.C. § 706.

2. The elements of those claims are set forth in Plaintiffs' accompanying brief in support of this motion. *See* Local Rule 56.3(b). As explained in that brief, Plaintiffs' claims raise purely legal issues for which there are no material disputes of fact. Plaintiffs are entitled to judgment on their claims and vacatur of the Compensation Rule's challenged provisions.

Dated: September 27, 2024

Respectfully submitted,

/s/ Allyson N. Ho

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CERTIFICATE OF SERVICE

I hereby certify that, on September 27, 2024, I caused the foregoing motion to be filed with the Clerk for the U.S. District Court for the Northern District of Texas through the ECF system. Participants in the case who are registered ECF users will be served through the ECF system, as identified by the Notice of Electronic Filing.

Dated: September 27, 2024

Respectfully submitted,

/s/ Allyson N. Ho

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